

Joseph Denny Nezperce V Prisoner # 39838
% G.C.D.C.
605 S. 16th Ave.
Bozeman, MT 59715
Pro Se Litigant/Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

JOSEPH DENNY NEZPERCE V,
Plaintiff,

V.

THE STATE OF MONTANA,
Defendants.

COMBINED EMERGENCY MOTION
FOR A TEMPORARY RESTRAINING
ORDER, AND MOTION FOR INFORMA
PAUPERIS AND AFFIDAVIT FOR
T.R.O.

COMES NOW, Joseph Denny Nezperce V, Plaintiff, and moves the Court
for Emergency Motion For Temporary Restraining Order And Motion For Informa
Pauperis. On November 13th, 2020 at 1600 hours;

AFFIDAVIT
FOR T.R.O.

I, Joseph Denny Nezperce, V, the Plaintiff, claim Deliberate Indifference by
"The State of Montana": Gallatin County Detention Center Clinic "G.C.D.C." Health
Care Provider Stephanie Catron FNP ("Provider Catron") Montana Dept. of Corrections
Medical Director Doctor Rees "Dr. Rees" Montana D.O.C. Register Nurse A. Thorpe
"A. Thorpe R.N." Montana D.O.C. Agent Andrew Garmer P.O. II "Garmer P.O. II", as
follows:

On May 6th, 2019 at 2005 hours Bozeman Police Dept. Officer Braden Peterson

~~pecker~~ provokes a fight with me and exasperates my injury of the right hand's thumb ruptured U.C.L. then Officer Peterson transports me to Bozeman Health Hospital. At my visit in the hospital a nurse examined my right hand, seen indications of serious injury and requested a Doctor's examination. A Doctor examined my right hand, seen swelling of thumb, order X-Rays, Ruled Ruptured U.C.L. then orders pain med, hand brace etc. and Referral to Urgent care at Bridger Orthopedic Clinic "B.O.C." Bozeman, MT and with order to schedule appointment A.S.A.P., then Officer Peterson transports me to G.C.D.C.. At G.C.D.C., I made multiple medical requests to be seen for hand injury examination, Pain Medicine and Setup Urgent Care at Bridger Orthopedic Clinic, Provider Catron said verbatim; "I will not order a visit at B.O.C. unless you have private health insurance because the Jail ("G.C.D.C.") will not pay for it". The provider Catron prescribed O.T.C. Medication for ~~Exen~~ Chronic pain management. I told the Provider Catron it "O.T.C. Med" was not relieving my hand injury pain. The Provider Catron denied further medical requests. The Jail officials took my hand brace without a doctor's order. In the End, A Fiasco and Denied medical care for Urgent care at B.O.C., So therefore, a failure to treat my condition resulted in further significant injury and the "unnecessary and wanton infliction of pain". the condition is serious because Bozeman health hospital deem it so by a reasonable Doctor who found it worthy of treatment; the presence of a medical condition that significantly affects an individual's daily activities; or the existence of chronic and substantial pain, I will describe how so as follows:

On July 8th, 2020, I was released from G.C.D.C., On August 26th 2020, 04:00 hours, I had an accident with my bicycle because my bike only had a right handle bar braking system lever and I couldn't squeeze hard enough due to the right hand's thumb U.C.L. injury, I crashed into a street ~~cut~~ curb, flew over the handle bars and landed on my right shoulder and face (later on developing spine, neck, muscle and other severe inner body pain.) I couldn't move my right arm and shoulder muscle and bones after the accident, due to enlarged swelling and internal bleeding; I admitted my self to Bozeman health hospital approximately 06:00 hours 8/26/2020, while at hospital their Nurse and Doctor examined my right shoulder area, the Doctor orders X-rays and found injuries that are important and worthy of treatment. the Doctor orders one dose of Pain medicine, Arm sling, and referral to ~~immediate~~ immediately seek Urgent care at B.O.C. sport and medicine.

Then On August 31st, 2020, I was arrested and held by MT D.O.C. Agent Garmer P.O. II at the G.C.D.C., While in G.C.D.C. I requested medical care with G.C.D.C.C., on 09/16/2020 Provider Catron denied medical care for shoulder injury, Provider Catron is claiming no indications of injuries needing urgent orthopedic care. So the Montana D.O.C. Clinical Services Division reviewed this medical kite/requests, it was reviewed by A. Thorpe R.N. and the Medical Director Dr. Rees both denying my medical request, ultimately agreeing with Provider Catron. Although Dr. Rees orders I can be further evaluated at G.C.D.C.C and will have further evaluation at my next D.O.C. Facility on 11/05/2020.

I can't even exercise my upper body, if I do leg exercises it volts pain to my upper body injury, I'm in extreme pain when I lift anything over 10 pounds, I'm in constant pain even when I walk, roll around as I'm sleeping, I was never given any pain medicine, I wasn't given X-rays, as well as the provider never conducted a hands on tangible examination of collarbone and right shoulder area, I told and ask the provider Catron to do all this along with another evaluation but to no avail.

On November 5th, 2020 Garmer P.O. II had visit me outside my cell 204 A-Pod at the G.C.D.C. Just to tell me his request for secured placement for me at Montana State Prison "M.S.P." has been approved but told me I will not leave G.C.D.C. to M.S.P. because of Covid-19 outbreak and I will see the Board of Pardons and Parole via tele-video Conference with G.C.D.C. electronic equipment, To date the G.C.D.C.C are actively ignoring my medical requests.


I am able to personally make ~~an~~ a tangible examination and assessment of my injuries, with the guide of "The Mayo clinics self help guide for medical care" I can admit along with those reasonable doctor's findings and orders that I should of been given urgent ~~at~~ orthopedic care within 4-6 weeks after initial date of injuries the hand injury and shoulder injury both need surgical care immediately or I will just suffer pain on a high level daily.

I therefore prove by specific facts that the denied urgent orthopedic care and continuous delay (as proven in since May 6th, 2019-July 8th, 2020 jail incarceration) of the Montana D.O.C. and G.C.D.C.C evaluations causing serious pain (substantial Pain) and unnecessary and wanton infliction of pain, I fear this will persist for years to come. I have no scheduled date of release from jail nor Hearing to see the parole board.

The only lawful remedy or recourse to make a full recovery of hand and shoulder injuries is to have the United States District Court order the Montana D.O.C. to release me from the G.C.D.C. and report to Billings Probation Office and be given a MCA 46-23-10 Rental Voucher to live at a hotel so I can attend to my own medical needs with the Indian Health Services - Billings area office 2900 4th Ave, N. Billings, MT 59101 Telephone (406) 247-7248.

I am serving (4) four years to the Montana D.O.C. for Criminal possession of dangerous drugs (Residue trace amount ~~not weighed~~ No weight), Cause No. DC 19-216 B, served approximately 18 months out of 48 Months, Parole eligible, I have no Court order Warrants for my arrest, no Court order Treatment or prerelease center placements. I am cleared for immediate release from state ~~at~~ Custody, if the Higher Court, Respectively, In The District Court for the District of Montana, Butte Division orders such relief.

I, Joseph Denny Nezperce V, the Plaintiff, hereby declares under Penalties of perjury that all information contained on this document is true and correct to the best of my knowledge.

 11/13/2020
Signature of Plaintiff / Date

Motion for Informa Pauperis

COMES NOW, Joseph Denny Nezperce V, Plaintiff, asks the Court to Incorporate "Motion for Informa Pauperis" "GRANTED" in the United States District Court for the District of ~~Mont~~ Montana, Butte Division, Cause No. CV-20-011-BU-BMM-KLD.

WHEREFORE, the Plaintiff request Judgment as follows:

- 1, Stop transfer to any D.O.C. facility

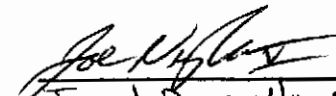
2. For The State of Montana to immediately release plaintiff from State Custody "at the Gallatin County Detention Center, then placed on probation, sent to Billings Probation Office via Commercial Bus Service, The D.O.C. is to Provide M.C.A. 46-23-10 Rental Voucher and allow plain tiff to tend to his own medical needs
3. To Proceed with In forma Pauperis Status
4. For such other and further relief as deems Just and equitable.

Certificate of Service

This is to certify that the foregoing was duly served on the following by the means indicated:

1 Mail

1. Clerk of U.S. District Court
Dated November 13th, 2020.


Joseph Denny Nezperce Jr.,
Pro Se Plaintiff